

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

JESSICA A. MURPHY,)	
)	
Plaintiff,)	CIVIL ACTION
v.)	
)	FILE NO. <u>22A00348</u>
FEDEX FREIGHT, INC. d/b/a)	
FEDEX FREIGHT,)	
)	
Defendant.)	
_____)	

COMPLAINT

COMES NOW Plaintiff Jessica A. Murphy, and files her Complaint against Defendant FedEx Freight, Inc. d/b/a FedEx Freight, and shows this Honorable Court as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Jessica A. Murphy, is a resident of Fulton County, Georgia.

2.

Defendant FedEx Freight, Inc. d/b/a FedEx Freight (“Defendant FedEx”) is a foreign corporation organized under the laws of Arkansas. Defendant FedEx’s principal office address is 8285 Tournament Drive, Building C, Memphis, Tennessee 38125. Service of process may be perfected upon Defendant FedEx through its registered agent, The Corporation Company (FL), at the following address: 106 Colony Park Drive, Suite 800-B, Cumming, Georgia 30040-2794. Defendant FedEx is subject to the venue and jurisdiction of the Court.

3.

Venue is proper in DeKalb County pursuant to O.C.G.A. § 40-1-117(b).

EXHIBIT A

ALLEGATIONS

4.

On or about April 16, 2021, Plaintiff was a passenger in a 2008 Dodge Ram and traveling eastbound on I-285 near the exit for Flat Shoals Parkway in DeKalb County, Georgia. While exercising reasonable care for her safety, the vehicle in which Plaintiff was a passenger was struck by other vehicles, disabling the vehicle Plaintiff in which Plaintiff was a passenger and causing it to be stopped on the roadway.

5.

Prior to and on April 16, 2021, Freddie Miles, an agent or employee of Defendant FedEx, operated 2016 Freightliner truck, V.I.N. 1FUBGEDV5GLHC5746, that was owned and/or controlled by Defendant FedEx for use on public highways.

6.

Prior to and on April 16, 2021, Defendant FedEx failed to exercise reasonable care for the safety of others who might be affected by its actions and allowed the negligent operation of the above-mentioned 2016 Freightliner truck while the truck and its driver were in violation of legally mandated minimum safety requirements and violated multiple Federal laws, Georgia laws, and rules of the road, and, on April 16, 2021, said violations caused a collision between the vehicle in which Plaintiff was a passenger and Defendant FedEx's truck and proximately caused serious injuries to Plaintiff.

7.

On the above-mentioned date and time, Freddie Miles, an employee or agent of Defendant FedEx, was operating the above-mentioned 2016 Freightliner eastbound on I-285 in DeKalb County. Freddie Miles was operating said truck in violation of multiple Federal laws, Georgia laws, and rules

of the road, including, but not limited to, failing to keep a proper lookout, failing to exercise reasonable care, and following too closely and, as a result, caused a collision between said truck and Plaintiff's vehicle, proximately causing serious injuries to Plaintiff.

8.

At all times relevant hereto, Defendant FedEx was negligently supervising the operation of its 2016 Freightliner, which resulted in the above-described collision and proximately caused serious injuries to Plaintiff.

9.

Defendant FedEx is liable under the doctrine of respondeat superior for the harm caused to Plaintiff by the wrongful acts of its employee, Freddie Miles, who was acting in the scope and course of his employment with Defendant FedEx and during the actual transaction of Defendant FedEx's business when he caused the subject collision, proximately causing Plaintiff to suffer injuries, general damages, and special damages.

10.

Defendant FedEx is liable to Plaintiff because it negligently entrusted its vehicle to Freddie Miles even though he was not properly suited to drive the vehicle, proximately causing injuries to Plaintiff, and because Defendant FedEx failed to properly hire, train, retain, and supervise its employees so that they would not cause harm to persons such as Plaintiff, proximately causing injuries and damages to Plaintiff.

11.

Defendant FedEx is negligent per se because (1) its acts and/or the acts of its employees were in violation of Federal laws and Georgia laws regarding the use and operation of motor vehicles and commercial motor vehicles, (2) the laws were designed to prevent the type of collision and injuries

involved in the subject litigation, (3) Plaintiff is a member of the class intended to be protected by said laws, and (4) the violation of said laws proximately caused Plaintiff's injuries.

12.

Defendant FedEx knew or should have known that operating its truck on an interstate while its driver was not properly suited to operate it would result in harm to the individuals who would be affected by the operation of said truck.

13.

Defendant FedEx knew or should have known that its failure to properly hire, train, retain, and supervise its employees so that they would not cause harm to persons such as Plaintiff would result in harm to individuals who would be affected by said employees, yet Defendant FedEx still failed to properly hire, train, retain, and supervise its employees, including, but not limited to, Freddie Miles.

14.

At all times relevant hereto, Defendant FedEx was operating the subject truck as a motor carrier pursuant to O.C.G.A. § 40-1-50 *et seq.* and other applicable laws.

DAMAGES

15.

As a result of FedEx's negligence and negligence per se, Plaintiff sustained personal injuries, special damages, and general damages for which she is entitled to be compensated by Defendant FedEx.

16.

As a direct and proximate result of Defendant FedEx's negligence and negligence per se, Plaintiff has incurred medical expenses in excess of \$113,586.82, the exact amount to be proven at trial.

17.

As a direct and proximate result of Defendant FedEx's negligence and negligence per se, Plaintiff has incurred lost wages in excess of \$1,000.00, the exact amount to be proven at trial.

18.

As a result of said injuries, Plaintiff has sustained permanent impairment, permanent disability, and permanent disfigurement.

19.

As a direct and proximate result of Defendant FedEx's negligence and negligence per se, Plaintiff will continue to suffer both general and special damages in the future, including expenses for future medical treatment, the exact amount to be proven at trial.

20.

Defendant FedEx has acted in bad faith, has been stubbornly litigious, and has caused Plaintiff unnecessary trouble and expense by forcing Plaintiff to resort to the use of the court system in order to resolve her claim when there is no bona fide controversy. Accordingly, Plaintiff seeks attorney's fees and expenses of litigation pursuant to O.C.G.A. § 13-6-11.

Wherefore, Plaintiff prays that:

- (a) Summons and Complaint be served upon Defendant FedEx according to the law;
- (b) Plaintiff recover from Defendant FedEx a sum of damages to compensate her for her injuries and damages, including, but not limited to, her medical expenses (past and

future), lost wages (past and future), and pain and suffering (past, present, and future);

- (c) Plaintiff recover from Defendant a sum of damages to compensate her for attorney's fees and costs of litigation pursuant to O.C.G.A. § 13-6-11;
- (d) Plaintiff be awarded prejudgment interest on her damages as allowed by law;
- (e) Interest on the judgment be awarded at the legal rate from the date of judgment;
- (f) All costs of this action be taxed against Defendant; and
- (g) Plaintiff have any and all other relief the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for each claim for which she has a right to a jury.

This 28th day of January, 2022.

Respectfully submitted,

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